

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

Cabell County Commission v.

AmerisourceBergen Drug Corporation, et al.

Case No. 1:17-op-45053-DAP (S.D. W. Va.)

MDL No. 2804

Case No. 17-md-2804

Judge Dan Aaron Polster

**MANUFACTURER DEFENDANTS' JOINT MOTION TO DISMISS
PLAINTIFF'S SECOND AMENDED COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, the Manufacturer Defendants¹ move this Court to dismiss all claims asserted against them in Plaintiff's Second Amended Complaint for failure to state a claim upon which relief can be granted. This Motion will be supported by the pleadings, the record, a Memorandum of Law in Support of the Manufacturer Defendants' Joint Motion to Dismiss Plaintiff's Second Amended Complaint, which is filed contemporaneously herewith and incorporated herein by reference, oral argument, and any other evidence requested or permitted by the Court.

WHEREFORE, the Manufacturer Defendants respectfully request that the Court grant their Motion in its entirety and dismiss all of Plaintiff's claims against them with prejudice.

¹ This Motion incorporates the definition of "Manufacturer Defendants" set forth in the *Summit* MTD at 1 n.2. Defendant Noramco, Inc. joins this Motion for the same reasons and on the same terms it joined the *Summit* MTD. It does not (and did not at all material times relevant hereto) manufacture, package, brand, market, distribute, or sell the finished drug products at issue in this litigation, and it reserves all rights and defenses specific to it. Conversely, although the arguments raised herein apply equally to Teva Pharmaceutical Industries Ltd., Allergan plc, and Mallinckrodt plc, these parties do not join this Motion for the same reasons stated in the *Summit* MTD at 1 n.2. Similarly, the arguments also apply to recently named SpecGX LLC, Par Pharmaceutical, Inc. and Par Pharmaceutical Companies, Inc., but those entities have not yet been served in this action (but intend to join the motion at the appropriate time).

Dated: June 8, 2018

Respectfully submitted,

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** denotes national counsel who will seek pro
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CERTIFICATE OF SERVICE

I hereby certify that on June 8, 2018, a copy of the foregoing **Manufacturer Defendants' Joint Motion to Dismiss Plaintiff's Second Amended Complaint** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated: June 8, 2018

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